

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

LISA RIEGEL, *et al.*,

Plaintiffs,

v.

KANA HOTELS, INC., *et al.*,

Defendants.

Civil Action 2:17-cv-1112

Chief Judge Edmund A. Sargus, Jr.

Magistrate Judge Kimberly A. Jolson

RULE 26(f) REPORT

Pursuant to Federal Rule of Civil Procedure 26(f), a meeting was held on February 28, 2018, and was attended by:

Greg R. Mansell, counsel for plaintiff(s) Riegel & Dagenfield,

Fred G. Pressley, Jr., counsel for defendant(s) Kana Hotels, Inc. and
Alpesh Patel,

Counsel represent that, during the meeting, they engaged in a meaningful attempt to meet and confer on the matters outlined below.

1. **CONSENT TO MAGISTRATE JUDGE**

Do the parties consent to Magistrate Judge jurisdiction pursuant to 28 U.S.C. § 636(c)?

 Yes X No

2. **INITIAL DISCLOSURES**

Have the parties agreed to make initial disclosures?

 X Yes No The proceeding is exempt under Rule 26(a)(1)(B)

If yes, such initial disclosures shall be made by April 13, 2018.

3. VENUE AND JURISDICTION

Are there any contested issues related to venue or jurisdiction?

☐ Yes ☒ No

If yes, describe the issue:

If yes, the parties agree that any motion related to venue or jurisdiction shall be filed by N/A.

4. PARTIES AND PLEADINGS

- a. The parties agree that any motion or stipulation to amend the pleadings or to join additional parties shall be filed by June 22, 2018.
- b. If the case is a class action, the parties agree that the motion for class certification shall be filed by N/A.

5. MOTIONS

- a. Are there any pending motion(s)?

☐ Yes ☐ No

If yes, indicate which party filed the motion(s), and identify the motion(s) by name and docket number:

Defendant Alpesh Patel filed a Motion to Dismiss Plaintiffs' Amended Complaint, Doc. No. 7, filed on February 16, 2018.

Plaintiffs thereafter filed an unopposed motion to dismiss Defendant Alpesh Patel as a party, pursuant to Fed. R. Civ. P. 21, Doc. No. 10, filed on March 1, 2018.

The Court granted Plaintiffs' Rule 21 motion and dismissed Alpesh Patel as a party to this action, Doc. No. 11, on March 5, 2018.

- b. Are the parties requesting expedited briefing on the pending motion(s)?

☐ Yes ☒ No

If yes, identify the proposed expedited schedule:

Opposition to be filed by N/A; Reply brief to be filed by N/A.

6. ISSUES

Jointly provide a brief description of case, including causes of action set forth in the complaint, and indicate whether there is a jury demand:

Plaintiffs Riegel and Dagenfield assert claims under the Fair Labor Standards Act, the Ohio Minimum Fair Wage Standards Act, the Ohio Constitution, and the Ohio Prompt Pay Act. Specifically, Plaintiffs allege Defendants' unlawful retention of tips, unlawful claiming of a tip credit, and the failure to pay minimum wages violate the FLSA and Ohio law. Further, Plaintiffs allege that Defendants have failed to pay overtime compensation in violation of the FLSA and Ohio law. Plaintiff Riegel also asserts a claim of retaliation under the FLSA.

There is a jury demand.

7. DISCOVERY PROCEDURES

- a. The parties agree that all discovery shall be completed by September 28, 2018. The parties to schedule their discovery in such a way as to require all responses to discovery to be served prior to the cut-off date, and to file any motions relating to discovery within the discovery period unless it is impossible or impractical to do so. If the parties are unable to reach an agreement on any matter related to discovery, they are directed to arrange a conference with the Court.

- b. Do the parties anticipate the production of ESI? X Yes _____ No

If yes, describe the protocol for such production: **The parties agree to produce ESI in the most efficient way possible.**

- c. Do the parties intend to seek a protective order or clawback agreement? Yes

If yes, such order or agreement shall be produced to the Court by May 4, 2018.

8. DISPOSITIVE MOTIONS

- a. Any dispositive motions shall be filed by November 9, 2018.

- b. Are the parties requesting expedited briefing on dispositive motions?

_____ Yes X No

If yes, identify the proposed expedited schedule:

Opposition to be filed by N/A; Reply brief to be filed by N/A.

9. EXPERT TESTIMONY

- a. Primary expert reports must be produced by July 13, 2018.

- b. Rebuttal expert reports must be produced by August 27, 2018.

10. SETTLEMENT

Plaintiffs will make a settlement demand upon receipt of discovery necessary to accurately calculate a demand. Defendant will respond within 30 days of receipt of Plaintiff's demand. The parties agree to make a good faith effort to settle this case. The parties understand that this case will be referred to an attorney mediator, or to the Magistrate Judge, for a settlement conference during this Court's settlement week. The parties request the following week:

March 20____; June 20____; **September 2018**; December 20____

In order for the conference to be meaningful, the parties agree to complete all discovery that may affect their ability to evaluate this case prior to the beginning of settlement week. The parties understand that they will be expected to comply fully with the settlement week orders which require, *inter alia*, that settlement demands and offers be exchanged prior to the conference and that principals of the parties attend the conference.

11. RULE 16 PRETRIAL CONFERENCE

Do the parties request a scheduling conference?

____ Yes, the parties would like a conference with the Court prior to it issuing a scheduling order. The parties request that the conference take place _____ in chambers _____ by telephone.

X No, a conference is not necessary; the Court may issue a scheduling order after considering this Report.

12. OTHER MATTERS

Indicate any other matters for the Court's consideration:

Signatures:

Attorney for Plaintiff(s):

/s/ Greg R. Mansell

Counsel for Plaintiffs Riegel & Dagenfield
Ohio Bar No.: 0085197

Attorney for Defendant(s):

/s/ Fred G. Pressley, Jr.

Counsel for Defendants Kana Hotels
Inc. and Alpesh Patel
Ohio Bar No.: 0023090

/s/ Carrie J. Dyer

Counsel for Plaintiffs Riegel & Dagenfield
Ohio Bar No.: 0090539

/s/ Rachel E. Burke

Counsel for Defendants Kana Hotels
Inc. and Alpesh Patel
Ohio Bar No.: 0066863

DATE: March 6, 2018